

REMARKS

I. Status of the Claims

Claims 1-86 were previous cancelled.

Without prejudice or disclaimer, claims 90, 92, 143, 154, and 182-189 have been canceled, and claims 87-89, 91, 93-129, 131-142, 144-151, 153, 165, 166, 173, and 177-181 have been amended. Support for those amendments can be found either in the claims as originally filed or in the specification, for example, at page 14, lines 2-5, of the specification as filed. Accordingly, there is written description support for all the claims.

Claims 87-89, 91, 93-142, 144-153, and 155-181 are pending with entry of this amendment.

II. Restrictions/Election

The Office made the Restriction Requirement of March 20, 2009, final, and withdrew the species election. The Office also withdrew claims 178-189 from further consideration at this time. See Office Action at 2. Applicants do not necessarily agree with the finality of the Restriction Requirement, and continue to reserve the right to present the subject matter disclosed by all non-elected inventions in this or a later-filed divisional application.

III. Claim Rejections - 35 U.S.C. §102

Claims 87-88, 90-98, 102-111, 113-114, 138-148, 150-151, 161-162, 167, and 175-177 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Application Publication No. US 2002/0115780 ("Mougin") for reasons as set forth at pages 2-3 of the Office Action. Applicants respectfully disagree and traverse the

rejection. Moreover, by this amendment, Applicants have amended, for example, independent claims, such as claim 87. To the extent, however, that the Office may consider rejecting currently pending claims, as amended, in view of Mougin, Applicants submit the following remarks.

Currently pending claim 87, as amended, recites, *inter alia*, that “the at least one film-forming ethylenic linear block polymer has a polydispersity index of greater than or equal to 2.5”, “the intermediate segment is a random copolymer block”, and “ the composition has a dry matter or dry extract content of greater than or equal to 45% by weight”.

Mougin, though describing block polymers to some extent, is silent on both the nature of the intermediate segment linking any two blocks, and dry matter or dry extract content in the composition. Moreover, Mougin discloses that “these block ethylenic copolymers of elastic nature are preferably obtained by controlled free-radical polymerization.” See paragraph [0016]. Indeed, Mougin’s triblock polymer of Example 2, referred by the Office at page 3, line 4, of the Office Action, was prepared by controlled free-radical polymerization. See Example 2 at page 6 of Mougin. Mougin further teaches that “this type of polymerization is reflected by a control of the mass of the polymers formed and by a low polydispersity index.” See paragraph [0020].¹

¹ The low polydispersity index is consistent with the following Wikipedia links:

http://en.wikipedia.org/wiki/Polydispersity_index
under “Effect of Polymerization Mechanism on PDI”, (PDI is polydispersity index), it reads”....[Living polymerization](#), a special case of addition polymerization, leads to values very close to 1.”

To be sure, the triblock copolymer disclosed by Mougin in Example 2 at page 6, appears to have a polydispersity index of 2.21 (M_w/M_n). See paragraph [0143]. As such, Mougin does not teach or suggest a block polymer with a polydispersity index of greater than or equal to 2.5, as recited, for example, in claim 87, as amended.

For the foregoing reasons, Mougin does not anticipate the rejected claims.

Applicants respectfully request that this rejection be withdrawn.

IV. Claim Rejections - 35 U.S.C. §103

A. Over Mougin

Claims 87-88, 90-98, 102-111, 113-114, 138-148, 150-153, 156, 159-164, 168, and 173-177 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Application Publication No. 2002/0115780 ("Mougin") for reasons as set forth at pages 3-5 of the Office Action. Applicants respectfully disagree and traverse this rejection for the following reasons.

As discussed above, Mougin does not teach or suggest a block polymer with a polydispersity index of greater than or equal to 2.5, as recited in currently pending claims, as amended. Neither does Mougin provides any motivation for a skilled artisan to prepare such a block polymer.

Moreover, Mougin is silent on the nature of the intermediate segment linking any two blocks, whereas the intermediate segment as recited in the currently pending claims, as amended, is a random copolymer. Mougin also fails to establish any method for preparing compositions having a dry matter or dry extract content of greater than or

link http://en.wikipedia.org/wiki/Living_polymerization, line 5 reads "Living polymerization in the literature is often called "living" polymerization or controlled polymerization."

equal to 45% by weight, as claimed herein. That is not surprising as the prior art teaches away from such compositions having a high solid contents. See instant specification at page 2-4. However, as shown in Experiments 11-24, compositions falling within the scope of the currently pending claims demonstrated improved staying power as compared with compositions having a dry matter or dry extract content of less than 45% by weight.

As such, Mougin does not render currently pending claims, as amended, obvious. Applicants respectfully request that this rejection be withdrawn.

B. Over Mougin in view of Anton

Claims 89, 99-101, 112, 115-133, 135-137, 154-158, and 164-166 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mougin, and further in view of U.S. Patent No. 6,153,206 ("Anton") for reasons as set forth at pages 5-6 of the Office Action. Applicants respectfully disagree and traverse this rejection for the following reasons.

As discussed above, Mougin neither anticipates nor renders obvious the current claims, as amended, for failing to teach or suggest the block polymer having a polydispersity index of greater than or equal to 2.5, an intermediate segment that is a random copolymer, and a dry matter or dry extract content in the composition of greater than or equal to 45% by weight, as currently claimed, as amended.

Anton, however, does not rectify those deficiencies.

Like Mougin, Anton is silent on the dry matter or dry extract content in the composition. Anton is also silent on polydispersity index.

Anton describes a polymer comprising a first repeat unit (first monomer) and a

second repeat unit (second monomer). Anton discloses that the polymer may be a block copolymer, without further discussing any particulars regarding the nature of the block copolymer. Although some of the copolymers listed in the table in col. 4, for example, the copolymers in line 50, IIIIIIBBBBB, and line 58, IIIIIIBBBBBBMMMMMM, can be considered as linear block polymers, those linear block polymers differ from the instantly claimed linear block polymers, as amended. For example, the intermediate segment of the claimed block polymers, as amended, is a random copolymer, whereas the intermediate segment of Anton's block polymers is either nonexistent (for IIIIIIBBBBB) or a homopolymer BBBBB (for IIIIIIBBBBBBMMMMMM). One may argue that IIBB can be considered as the intermediate block for IIIIIIBBBBB (by definition, IIIIIIBBBBB is a diblock with no intermediate block), IIBB still is not a random block.

Moreover, as discussed above, the currently claimed inventions possess unexpected results when compared with compositions having a dry matter or dry extract content of less than 45% by weight.

Consequently, Mougin and Anton, alone or in combination, do not render obvious those rejected claims. This rejection should be withdrawn.

C. Over Mougin in view of Galleguillos

Claims 115, 133-134, 149 and 172 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mougin, and further in view of U.S. Patent No. 6,410,005 ("Galleguillos") for reasons as set forth at pages 6-7 of the Office Action. Applicants respectfully disagree and traverse this rejection for the following reasons.

As discussed above, Mougin neither anticipates nor renders obvious the current claims, as amended, for failing to teach or suggest the block polymer having a

polydispersity index of greater than or equal to 2.5, an intermediate segment that is a random copolymer, and a dry matter or dry extract content in the composition of greater than or equal to 45% by weight , as currently claimed, as amended.

Galleguillos, however, does not rectify those deficiencies.

Galleguillos is cited for the teaching “of hair styling composition comprising block copolymers with varying glass transisiton temperatures with hydrophilic and hydrophobic blocks in organic solvents and with surfactants”. Nevertheless, Applicants note that, like Mougin, Galleguillos is silent on the dry matter or dry extract content in the composition. Galleguillos is also silent on polydispersity index .

Moreover, Galleguillos teaches a branched polymer, wherein the linkage X-X serving to link two blocks, *see* the structures between lines 50-65 in col. 4, is not a random copolymer as currently claimed, as amended.

In addition, as discussed above, the currently claimed inventions possess unexpected results when compared with compositions having a dry matter or dry extract content of less than 45% by weight. As such, Mougin and Galleguillos, alone or in combination, do not render obvious those rejected claims. This rejection should be withdrawn.

D. Over Mougin in view of de la Poterie et al

Claims 168-171 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mougin, and further in view of U.S. Patent No. 6,464,969 (“de la Poterie”) for reasons as set forth at pages 7-8 of the Office Action. Applicants respectfully disagree and traverse this rejection for the following reasons.

As discussed above, Mougin neither anticipates nor renders obvious the current

claims, as amended, for failing to teach or suggest the block polymer having a polydispersity index of greater than or equal to 2.5, an intermediate segment that is a random copolymer, and a dry matter or dry extract content in the composition of greater than or equal to 45% by weight, as currently claimed, as amended.

de la Poterie, however, does not rectify those deficiencies.

de la Poterie is cited for the teaching "of a composition comprising at least one hydrophobic film-forming and a thermal transition agent which can be one and the same polymer as an aqueous dispersion." Nevertheless, Applicants note that de la Poterie describes that at least one stabilizer may be chosen from, *inter alia*, a block polymer. See col. 9, lines 40-43. de la Poterie however does not discuss any particulars regarding the block polymers.

Moreover, as discussed above, the currently claimed inventions possess unexpected results when compared with compositions having a dry matter or dry extract content of less than 45% by weight. As such, Mougin and de la Poterie, alone or in combination, do not render obvious those rejected claims. This rejection should be withdrawn.

V. Information Disclosure Statement

Applicants respectfully request that the Office consider and initial the references listed on the last page of the SB/08 submitted on May 7, 2009.

CONCLUSIONS

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned Applicants' representative at (650) 849-6649.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.



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By: _____

Wen Li, Ph.D.
Reg. No. 62,185

Tel: (650) 849-6649